IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

MFA.No. 789 of 1997()

WCC.27/1995 of W.C.C., KANNUR
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APPELLANT - APPLICANT:

DINESHAN, S./O. CHANDUKUTY,
LAKSHAM VEEDU, MANNIPADY,
P.O. RAMDAS NAGAR, KASARGOD.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS - RESPONDENT - OPPOSITE PARTY:
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1. DAYANANDA P., S/O. LATE ACHUTHA,
R.D. NAGAR POST, KASARGOD.

2. THE MANAGER, ORIENTAL INSURANCE COMPANY
LIMITED, CITY BRANCH, PAILANDS BUILDING,
2ND FLOOR, P.M. RAO ROAD, MANAGALORE

BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 15/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 789 OF 1997

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Dated this the 15th day of March, 2007

J U D G M E N T

The claimant in W.C.C. No. 27 of 1995 on the file of the Commissioner for Workmen's Compensation & Deputy Labour Commissioner, Kannur, is the appellant. The appeal is filed against the order passed by the Workmen's Compensation Commissioner dismissing a petition filed by the petitioner, appellant herein, claiming compensation for the alleged injuries sustained by him. According to the appellant he is a driver by profession. He was employed by the first respondent. It was averred that on 20.12.1994 while he was driving the Autorikshaw he met with an accident and sustained injuries. According to him he sustained the injuries during the course of his employment and as such he is entitled to get Rs.1,00,000/- as compensation. The owner of the vehicle did not appear and contest the matter. The insurer appeared and filed written statement denying the averments contained in the petition. Exhibit P1 FIR shows that

the accident had occurred on 20.12.1994. The lower authority found that there is no material to hold that it was the appellant who was driving the vehicle. He did not even produce the driving licence. Except the interested testimony of the applicant, there is no other evidence to prove that the injuries sustained by the applicant was employment injuries. The only evidence is that of his oral evidence. No disability was also established. The documents produced by the appellant would show that he sustained only superfacial injuries. The income of the appellant was also not established. So the lower authority dismissed the petition. All the findings of the lower authority are based on evidence of fact. No substantial question of law arises also. So there is no merit in the appeal.

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 789 OF 1997

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J U D G M E N T

15TH MARCH, 2007